590.

SUPREME COURT OF THE UNITED STATES.

No. 109.

JAMES STEVENS, PLAINTIFF IN ERROR,

vs.

GLADDING & PROUD.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE DISTRICT OF RHODE ISLAND.

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GIDEON, printer.

At a Circuit Court of the United States, begun and holden at Newport on the fifteenth day of June, A. D. 1850; present, Hon. Levi Woodbury, asso. justice U. S. Sup. Court; Hon. John Pitman, district judge U. S. for R. I. dist.; James M. Clarke, esq., U. S. dist. att'y for said dist.; George W. Jackson, esq., U. S. marshal; John T. Pitman, clerk.

Be it remembered, that at the November term of said court, eighteen hundred and forty-eight, the following writ and declaration were filed:

Writ.

JAMES STEVENS
vs.
GLADDING & PROUD.

RHODE ISLAND DISTRICT, *sc.*

[L. S.] The President of the United States of America, to the marshal of said district or to his deputy, greeting:

We command you to arrest the bodies of Royal Gladding and Isaac T. Proud, both of the city of Providence, in the State of Rhode Island, citizens of said State and of the United States, booksellers and stationers, doing business in company under the firm of Gladding & Proud, if they may be found in your district; and for want of their bodies, to attach their goods and chattels to the value of four thousand dollars, and them or those in safe custody keep to answer the complaint of James Stevens, of Stonington, in the county of New London, State of Connecticut, a citizen of said State, and of the United States of America, who sues as well for himself as for said United States, this being a qui tam process, the said James Stevens being a civil engineer, at the next circuit court to be holden at Providence, within and for the Rhode Island district, on the fifteenth day of November next ensuing the date hereof, in an action of debt to recover penalties or forfeitures incurred by the defendants under the act of Congress entitled "An act to amend the several acts respecting copyrights," passed Feb'y 3d, A. D. 1831, as by declaration to be filed in court will be fully set forth, to the damage of the plaintiff four thousand dollars.

Hereof fail not, and make true return of this writ with your doings thereon.

Witness the Hon. Roger B. Taney, our chief justice, at Providence, this twenty-seventh day of June, anno Domini 1848.

JOHN T. PITMAN, *Clerk.*
D. J. PEARCE,
Att'y for Plt'ff.

(Signed) ABRAHAM H. STILLWELL.

[REC. CIX, D. T., 1855.]—1

Marshal's Return.

UNITED STATES OF AMERICA,
Rhode Island district, sc.

JUNE 28, 1848.

Arrested the bodies of the within named defendants, and have accepted of Abraham H. Stillwell as their bail.

BUMUGTON ANTHONY.
U. S. Marshal.

Fees—Service, $4
Bail, 1
Travel, 3
—
$8

Declaration.

UNITED STATES OF AMERICA,
Rhode Island district, sc.

Hon. Circuit Court of the United States, within and for said district.

November Term, 1848.

James Stevens, of Stonington, in the county of New London, in the State of Connecticut, a citizen of said State and of the United States of America, civil engineer, who sues as well in his own as in behalf of the United States of America, this process being a qui tam proceeding, complains of Royal Gladding and Isaac T. Proud, both of the city and county of Providence and State of Rhode Island, citizens of said State and of the United States of America, booksellers and stationers, doing business in company under the firm and style of Gladding & Proud, who have been arrested by the marshal on an action of debt; and also for that whereas he the said plaintiff, who sues as well for himself as for the said United States, heretofore, to wit, at said Newport, in the said State of Rhode Island, on the 23d day of April, A. D. 1831, the said plaintiff then and there, a citizen of the said United States and a resident therein, and who was then and there the author and proprietor of a certain map or chart called "A Topographical Map of the State of Rhode Island and Providence Plantations, surveyed trigonometrically and in detail by James Stevens, Topographer and Civil Engineer, Newport, R. I., 1831," and who, as such author, was the maker and composer of said map or chart, and as such under the provisions of the act of Congress of the 3d of February, A. D. 1831, entitled "An act to amend the several acts respecting copyrights," was entitled to, and ought to have had, the sole right and liberty of printing, reprinting, publishing and vending such map or chart, for the term of twenty-eight years from the time of recording the title thereof, which he, the said plaintiff, avers, was on the 23d of April, A. D. 1831. And the said plaintiff further avers, that in securing to himself the sole right of the copyright of said map or chart, he has complied with all the

provisions and requirements in every particular of the aforesaid act of the 3d of February, 1831, entitled "An act to amend the several acts respecting copyrights;" that he deposited, and did deposit in the office of the clerk of the United States district court, within and for the district of Rhode Island, a printed copy of the title of his said map or chart, on the said 23d day of April, 1831, which said title is in the words and figures following, to wit, "A Topographical Map of the State of Rhode Island and Providence Plantations, surveyed trigonometrically and in detail by James Stevens, Topographer and Civil Engineer, Newport, R. I., 1831," the right whereof he claims as author, in conformity wirh an act of Congress entitled "An act to amend the several acts respecting copyrights," signed by Benjamin Cowell, clerk of said district court.

And the said plaintiff further avers, that within three months from the publication of said map or chart he did deliver and cause to be delivered a copy of the same to the clerk of said district or district court.

And the said plaintiff further avers, that he gave the information required by the 5th section of the act of Congress of his own copyright being secured, by causing before publication thereof to be impressed or inserted on all the copies in every edition of said map published by him, on the face of every copy of said map or chart, the following words, viz: Entered, according to act of Congress, in the year one thousand eight hundred and thirty-one, by James Stevens, in the clerk's office of the district court of Rhode Island district. Yet the said defendant, not being ignorant of the premises, but wilfully intending and fraudulently contravening to injure the premises, and to deprive him of the use and benefit of his said map or chart, and to render the same to him of no avail, profit, or benefit whatever, did, at the city of Providence, and at other places and times within said district of Rhode Island, within two years of the time next preceding the date of his the said plaintiff's writ in this action, and within that time, and after the recording as aforesaid of his said map or chart according to the provisions of the act of Congress aforesaid, and contrary to the provisions of the said act of Congress, did engrave, etch, work, sell, and copy, and did cause to be engraved, etched, worked, and copied, either in the whole or by varying, adding to, or diminishing the main design of him the said plaintiff, without the consent of the proprietor of the said map or chart of him the said James Stevens first obtained in writing, signed in the presence of two credible witnesses, and contrary to the provisions of the said act of Congress, did publish, sell, expose to sale, and dispose of two thousand sheets, or about that number, of his the said plaintiff's map or chart as aforesaid, whereby an action hath accrued to him the said plaintiff in his suit as aforesaid, to have and to recover of them the said defendants the sum of two thousand dollars, being the one dollar for each and every sheet of his the said plaintiff's map or chart so printed, published, and sold, and exposed to sale and disposed of, of his the said plaintiff's map or chart, without his the said plaintiff's consent first obtained in writing, signed in the presence of two credible witnesses, whereby, under and

by virtue of said act of Congress, an action hath accrued to the said plaintiff under the aforesaid act of Congress of 3d February, 1831, as aforesaid, to have and recover of them the said defendants the aforesaid sum of two thousand dollars, together with the plate, of the value of five hundred dollars, on which said map or chart was so engraved or etched, worked or copied, either in the whole or by varying, adding to or diminishing the main design thereof; which said several sums of money the defendants, though often requested, have always refused and now do refuse to pay, against the form of the statute in such case made and provided. And also for that whereas he the said plaintiff who sues, as well for himself as for the said United States of America, heretofore, to wit, at said Newport in said State of Rhode Island, on the 23d day of April, A. D. 1831, the said plaintiff then and there a citizen of said United States, and a resident therein, and who was then and there the author or proprietor of a certain map or chart called "A Topographical Map of the State of Rhode Island and Providence Plantations, surveyed trigonometrically and in detail by James Stevens, Topographer and Civil Engineer, Newport, R. I., 1831," and who as such author was the maker and composer of said map or chart; and as such under the provisions of the act of Congress of 3d February, 1831, entitled "An act to amend the several acts respecting copyrights," was entitled to and ought to have had the sole right and liberty of printing, reprinting, publishing, and vending such map or chart for the term of twenty-eight years from the time of recording the title thereof, which he the said plaintiff further avers; that in securing to himself the sole right of the copyright of said map or chart, he has complied with all the provisions and requirements in every particular of the aforesaid act of the 3d February, 1831, entitled "An act to amend the several acts respecting copyrights;" that he hath deposited and did deposit in the office of the clerk of the United States district court within and for the district of Rhode Island a printed copy of the title of his said map or chart, on the said 23d day of April, 1831, which said title is in the words and figures following, to wit: A Topographical Map of the State of Rhode Island and Providence Plantations, surveyed trigonometrically and in detail by James Stevens, topographer and civil engineer, Newport, R. I., 1831, the right whereof he claims as author in conformity with an act of Congress entitled "An act to amend the several acts respecting copyrights;" signed, Benj. Cowill, clerk of said district court.

And the said plaintiff further avers, that within three months from the publication of said map or chart, he did deliver and cause to be delivered a copy of the same to the clerk of said district or district court.

And the said plaintiff further avers, that he gave the information required by the 5th section of the aforesaid act of Congress, of his said copyright being secured by causing before publication thereof to be impressed or inserted on all the copies in every edition published by him, on the face of every copy of said map or chart, the following

words, viz: Entered according to act of Congress, in the year one thousand eight hundred and thirty-one, by James Stevens, in the clerk's office of the district court for Rhode Island district.

Yet the said defendants, not being ignorant of the premises, but wilfully intending and fraudulently contriving to injure the said plaintiff, and to deprive him of the use and benefit of his said map or chart, and to render the same to him of no avail, profit or advantage whatever, did, at the city of Providence, and at other places and times within said district of Rhode Island, within two years of the time next preceding the date of his the said plaintiff's writ in this action, and within that time, and after the recording as aforesaid of the title of his said map or chart, according to the provisions of the act of Congress as aforesaid, and against the form of the statute in such case made and provided, did engrave, etch, work, sell and copy in whole and in part, and by varying, adding to, and diminishing the main design of the map or chart as aforesaid of him the said plaintiff, with intent to evade the law and the act of Congress as aforesaid, and did imprint and import for sale, and did cause to be imprinted and imported for sale, a map or chart of the likeness and similitude of his the said plaintiff's maps or charts as aforesaid, without the consent in writing of him the said plaintiff, obtained in writing, signed by two credible witnesses, he the said plaintiff being the proprietor of said map or chart; and the said defendants, on the day and year last aforesaid, at and within said district of Rhode Island, and within two years next preceding the day of the date of the plaintiff's writ in this action, knowing said map or chart to be so imprinted and imported, contrary to the provisions of said act of Congress, without such consent, did publish, sell, and expose to sale, and did dispose of the same, without such consent as aforesaid, to the amount of two thousand copies, at the price of two dollars for each and every copy, being in the whole to the amount of four thousand dollars, whereby an action hath accrued to him the said plaintiff in his said suit as aforesaid, to have and to recover of them the said defendants, in one other sum of two thousand dollars, being one dollar for each and every sheet of his the said plaintiff's map or chart so printed, published, sold, and exposed to sale, and disposed of his the said plaintiff's map or chart, which said sum the defendants, though often requested, have always refused to pay, against the form of the statute in such case made and provided. And he the said plaintiff, suing as aforesaid, further avers, and in fact saith, that the said defendants, in violation of the aforesaid act of Congress, and the true intent and meaning thereof, with its several provisions, have now, and for a long time now past have had, contrary to the provisions of said act of Congress of the 3d February, 1831, within their possession, printed and published and exposed to sale, within two years next preceding the day of the date of the plaintiff's writ in this action, contrary to said act of Congress and the provisions thereof, two thousand copies in sheets, and bound ready for sale, of his the said plaintiff's map or chart as aforesaid, whereby a further right or cause of action hath ac-

crued to him the said plaintiff, suing as aforesaid, to have and recover of them the said defendants one other sum of two thousand dollars, together with a forfeiture of every sheet of his the said plaintiff's map or chart so copied or printed as aforesaid, to the said plaintiff as proprietor thereof, he having by law the copyright thereof, whereby and by force of the aforesaid act of Congress a further right of action hath accrued to the said plaintiff, suing as aforesaid, to have and to recover of them the said defendants, with the forfeiture as aforesaid, one other sum of two thousand dollars, with the forfeiture as aforesaid, which, though often requested, have not been paid, but the payment whereof they have always refused to pay, against the form of the statute in such case made and provided.

And the said plaintiff, suing as aforesaid, further avers, and in fact saith, that after the passing of the act as aforesaid, to wit, within two years next preceding the date of the plaintiff's writ in this action, in the said district and the State of Rhode Island, they the said defendants did print and publish a certain map or chart, which is herein and in the preceding counts herein contained particularly described and set forth, of which he the said plaintiff was author and proprietor, and they the defendants not having legally acquired a copyright thereof, did insert and impress that the same had been entered according to the act of Congress, or in words purporting the same, which they then and there falsely and fraudulently did, whereby a further action hath accrued to said plaintiff by force of the same act of Congress, to have and recover from them the said defendants one other sum of one hundred dollars, one half thereof to and for the use of said plaintiff, and the other half to and for the use of the United States,
without his the said plaintiff's consent first obtained in writing, signed in the presence of two credible witnesses, whereby an action hath accrued to the plaintiff under the aforesaid act of Congress, suing as aforesaid, to have and recover of them the said defendants the aforesaid sum of one hundred dollars, together with the plate, of the value of five hundred dollars, on which said map or chart was so engraved, etched, worked or copied, either in the whole or by varying, adding to, or diminishing the main design thereof; which said several sums of money, though often requested, the said defendants have always refused, and do now refuse, to pay; yet the said defendants, though often requested, the said several sums of money to pay the same, to his the said plaintiff's damage, four thousand dollars, as laid in his writ, dated the twenty-seventh day of June, anno Domini one thousand eight hundred and forty-eight, (A. D. 1848;) and therefore, as well for the United States of America as for himself in this behalf, brings his suit, pursuant to the statute in such case made and provided.

JAMES STEVENS,
For himself.

To which the defendants filed the following plea:

November Term, 1848.

The defendants come and defend the wrong and injury, when, &c., and say they are not guilty in manner and form, as the pl'ff hath declared; and of this. &c.

By their Attorneys,
TILLINGHAST & BRADLEY.

And the case being continued from term to term, until the present term thereof, where it is called for trial and submitted to the following jury:

Edwin Wilbur, *Foreman*,	John Southworth,
Cyrus H. Peckham,	Abraham Peckham,
George C. Shaw,	Peleg Peckham,
Wm. M. Manchester,	Benjamin Shaw,
Peleg Albro,	Ichabod P. Wilbur,
Henry Manchester,	Andrew F. Potter.

Who return a verdict, which is duly affirmed in the words following, to wit:

Verdict.

The jury find that the defendants are not guilty in manner and form as set forth in the plaintiff's declaration.

(Signed) EDWIN WILBUR, *Foreman.*

Judgment.

Whereupon it is considered by the court here, that the defendants have and recover of the plaintiff their costs of suit, taxed at the sum of thirty-two dollars and forty-five cents.

UNITED STATES OF AMERICA,
Rhode Island district, sc.

CLERK'S OFFICE, CIRCUIT COURT,
At Providence, Oct'r 29th, 1855.

I, Henry Pitman, clerk of the circuit court of the United States for the first circuit within and for the Rhode Island district, do hereby certify, that the foregoing thirteen pages contain a true copy from the record in the case at law, James Stevens against Gladding and Proud, disposed of at the June term of said court, A. D. 1850, duly examined and compared.

[L. S.] In testimony whereof I have hereunto set the seal of said court, and my hand, the day and year above written.

HENRY PITMAN,
Clerk Cir. Court U. S. R. I. District.

Writ of Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable the Judges of the Circuit Court of the United States for the district of Rhode Island, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between James Stevens, plaintiff, and Royal Gladding and Isaac T. Proud, doing business under the firm of Gladding and Proud, defendants, a manifest error hath happened, to the great damage of the said James Stevens, as by his complaint appears:

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the 25th day of April, in the year of our Lord one thousand eight hundred and fifty-five.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Allowed by me, this 14th May, 1855.

S. NELSON.

Copy of Bond to prosecute writ of error.

Know all men by these presents, that we, James Stevens and Jonathan T. Almy, both of Newport, Rhode Island, are held and firmly bound unto Royal Gladding and Isaac T. Proud, in the full and just sum of two hundred dollars, to be paid to the said Royal Gladding and Isaac T. Proud, their certain attorney, executors, administrators, or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this first day of March, in the year of our Lord one thousand eight hundred and fifty-five.

Whereas lately, at a circuit court of the United States, in the district of Rhode Island, in a suit depending in said court between James Stevens and Royal Gladding and Isaac T. Proud, a judgment was rendered against the said James Stevens, and the said James Stevens having obtained a writ of error, and filed a copy thereof in the clerk's office of the said court, to reverse the judgment in the aforesaid suit,

and a citation directed to the said Royal Gladding and Isaac T. Proud, citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of December next.

Now, the condition of the above obligation is such, that if the said James Stevens shall prosecute his writ of error to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

As principal: JAMES STEVENS, [L. S.]
JONATHAN T. ALMY. [L. S.]

Sealed and delivered in presence of
(Signed) EDW. T. ALLAN,
ELIJAH SHERMAN, Jr.

STATE OF RHODE ISLAND,
Newport, sc:

NEWPORT, *March* 1, 1855.

I, William Gilpin, commissioner of the circuit court of the United States, within and for the Rhode Island district, do hereby certify, that the within-named obligors are known to me to be perfectly good and responsible for the within-named amount.

WM. GILPIN,
Com'r Circuit Court U. S., R. I. District.

Citation.

The United States of America, to Royal Gladding and Isaac T. Proud, doing business under the firm of Gladding & Proud, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error, filed in the clerk's office of the circuit court of the United States for the district of Rhode Island, wherein James Stevens is plaintiff in error, and you are defendants in error, to show cause, if any there be, why judgment, rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, our chief justice of the Supreme Court of the United States, this eighteenth day of May, in the year of our Lord one thousand eight hundred and fifty-five.

S. NELSON.